

# TRANSCRIPT OF RECORD

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## Supreme Court of the United States

OCTOBER TERM, 1957 1958

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No. [REDACTED] 32

UNITED STATES OF AMERICA, APPELLANT

vs.

A & P TRUCKING COMPANY AND  
HOPLA TRUCKING COMPANY

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APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEW JERSEY

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Filed January 29, 1958

Probable jurisdiction noted March 31, 1958

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# SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1957

No. 754

UNITED STATES OF AMERICA, APPELLANT

vs.

A & P TRUCKING COMPANY AND  
HOPLA TRUCKING COMPANY

## INDEX

	Original	Print
Record from the U. S. District Court for the District of New Jersey in the case of United States of America v. A & P Trucking Co., Criminal No. 252-56 .....	1	1
Information .....	1	1
Notice of allocation .....	22	15
Appearance .....	24	16
Arraignment and Plea .....	25	16
Notice of motion to quash information .....	29	18
Order dismissing information .....	31	19
Notice of appeal to the Supreme Court of the United States .....	33	20
Docket entries .....	37	21
Clerk's certificate (omitted in printing) .....	39	23
Record from the U. S. District Court for the District of New Jersey in the case of United States of America v. Hopla Trucking Company, Criminal No. 261-56 .....	39a	23
Information .....	39a	23
Notice of allocation .....	42	24
Appearance .....	44	25
Arraignment and Plea .....	46	25
Notice of motion to quash information .....	48	26
Order dismissing information .....	50	27
Notice of appeal to the Supreme Court of the United States .....	52	28
Docket entries .....	56	29
Clerk's certificate (omitted in printing) .....	57	31
Order noting probable jurisdiction .....	58	31



1 IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

Cr. No. 252-56

UNITED STATES OF AMERICA, *Plaintiff,*

*v.*

A & P TRUCKING Co., a partnership composed of Alex Schub, Aldo Iafrate and Arthur Clough and SOL LIEBMAN, *Defendants.*

Information — Filed July 5, 1956

The United States Attorney charges:

2 COUNT 1

On or about the 18th day of March, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, and, as such carrier, subject to the regulations prescribed by the Interstate Commerce Commission applying to shipments of explosives and other dangerous articles made by way of common, contract and private carriers by motor vehicle (49 C.F.R. 71 to 78), did knowingly transport by motor vehicle more than 2500 pounds, to wit, 26,712 pounds, gross weight, of chromic acid, flake, an oxidizing material, from Kearny, New Jersey, enroute to Brooklyn, New York, without having marked or placarded each side and the rear of said motor vehicle, with a placard or lettering, in letters not less than three inches high, on a contrasting background, showing that said motor vehicle was transporting dangerous commodities. (49 C.F.R. 77.823 (a); Title 18, U. S. Code, Sec. 835)

Sol Liebman, defendant, well knowing the premises aforesaid, did knowingly aid and abet said A & P Trucking Co., the said offense in manner and form aforesaid to do and commit. (Title 18, U. S. Code, Sec. 2)

2

3

## COUNT 2

On or about the 18th day of March, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully permit Sol Liebman, a driver in its service, to drive its motor vehicle engaged in the transportation of chromic acid, flake, an oxidizing material, from Kearny, New Jersey to Brooklyn, New York, without said driver having been physically examined by a licensed doctor of medicine or osteopathy and having been certified by such doctor as meeting the minimum physical requirements for drivers prescribed in the Motor Carrier Safety Regulations. (49 C.F.R. 191.8; Title 49, Sec. 322 (a), U. S. Code)

4

## COUNT 3

On or about the 18th day of March, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully fail to equip with a fire extinguisher its motor vehicle, a tractor bearing New York registration No. 269-457, used in the transportation of property, namely chromic acid, flake, an oxidizing material, from Kearny, New Jersey to Brooklyn, New York. (49 C.F.R. 193.95 (a); Title 49, Sec. 322 (a), U. S. Code)

5

## COUNT 4

On or about the 6th day of January, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport copperas (granular technical) by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Sayreville, New Jersey, to Brooklyn, New York, for compensation in the amount of \$74.34 without there being in force with respect to the defendant a certificate of public convenience and necessity issued



by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

#### COUNT 5

On or about the 15th day of January, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport potassium chloride by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Metuchen, New Jersey, to Brooklyn, New York, for compensation in the amount of \$26.52 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

6

#### COUNT 6

On or about the 18th day of January, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport yellow prussiate of soda by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Warners, New Jersey, to Brooklyn, New York, for compensation in the amount of \$74.34 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

#### COUNT 7

On or about the 20th day of January, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly

and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport paint, dry by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Brooklyn, New York, to Elizabeth, New Jersey, for compensation in the amount of \$76.13 without there being in force with respect to the defendant a certificate of public convenience and necessity issue by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

### COUNT 8

On or about the 22nd day of January, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport copperas (granular technical) by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Sayreville, New Jersey, to Brooklyn, New York, for compensation in the amount of \$74.34 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

### COUNT 9

On or about the 2nd day of February, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport, paint, dry by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Brooklyn, New York, to Elizabeth, New Jersey, for compensation in the amount of \$133.61 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations.. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

8

## COUNT 10

On or about the 4th day of February, 1954, in the District, of New Jersey, A & P Trucking Co., defendant, a partnership composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport chromic acid, flake by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Kearny, New Jersey to Brooklyn, New York for compensation in the amount of \$40.07 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

## COUNT 11

On or about the 11th day of February, 1954, in the District, of New Jersey, A & P Trucking Co., defendant, a partnership composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport prussiate of soda by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Warners, New Jersey to Brooklyn, New York for compensation in the amount of \$74.34 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

9

## COUNT 12

On or about the 15th day of February, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership, composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as a such carrier, did transport paint, dry



by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Brooklyn, New York, to Elizabeth, New Jersey for compensation in the amount of \$21.00 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

### COUNT 13

On or about the 23rd day of February, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership, composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport sodium bichromate by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Kearny, New Jersey, to Brooklyn, New York for compensation in the amount of \$41.81 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

### COUNT 14

On or about the 24th day of February, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership, composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport copperas (granular technical) by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Sayreville, New Jersey to Brooklyn, New York for compensation in the amount of \$74.34 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code).

## COUNT 15

On or about the 26th day of February, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership, composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport yellow prussiate of soda by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Warners, New Jersey, to Brooklyn, New York for compensation in the amount of \$74.34 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

11

## COUNT 16

On or about the 4th day of March, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership, composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport copperas (granular technical) by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Sayreville, New Jersey, to Brooklyn, New York for compensation in the amount of \$74.34 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

## COUNT 17

On or about the 8th day of March, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership, composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport chromic acid, flake by motor

vehicle, on public highways, for Reichhold Chemicals, Inc., from Kearny, New Jersey, to Brooklyn, New York, for compensation in the amount of \$48.08 without there being in force with respect to the defendant a certificate of public convenience and necessity issue by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

12

## COUNT 18

On or about the 9th day of March, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership, composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport titanium sulphate cake by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Sayreville, New Jersey to Brooklyn, New York for compensation in the amount of \$36.79 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

## COUNT 19

On or about the 12th day of March, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership, composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport chromic acid, flake by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Kearny, New Jersey, to Brooklyn, New York for compensation in the amount of \$48.08 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)



13

## COUNT 20

On or about the 15th day of March, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership, composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport paint, dry by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Brooklyn, New York to Lodi, New Jersey for compensation in the amount of \$21.00 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

## COUNT 21

On or about the 17th day of March, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership, composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport copperas (granular technical) by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Sayreville, New Jersey, to Brooklyn, New York for compensation in the amount of \$69.69 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

14

## COUNT 22

On or about the 24th day of March, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership, composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport titanium sulphate cake by

motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Sayreville, New Jersey to Brooklyn, New York for compensation in the amount of \$50.72 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

### COUNT 23

On or about the 26th day of March, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership, composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport yellow prussiate of soda by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Warners, New Jersey to Brooklyn, New York for compensation in the amount of \$69.69 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

### COUNT 24

On or about the 30th day of March, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership, composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport chromic acid, flake by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Kearny, New Jersey, to Brooklyn, New York, for compensation in the amount of \$48.08 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

## COUNT 25

On or about the 31st day of March, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership, composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport paint, dry by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Brooklyn, New York to Lyndhurst, New Jersey, for compensation in the amount of \$21.00 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

16

## COUNT 26

On or about the 1st day of April, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership, composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport copperas (granular technical) by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Sayreville, New Jersey to Brooklyn, New York for compensation in the amount of \$69.69 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

## COUNT 27

On or about the 5th day of April, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership, composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport yellow prussiate of soda by motor vehicle, on public highways, for Reichhold Chemi-



icals, Inc., from Warners, New Jersey, to Brooklyn, New York for compensation in the amount of \$69.69 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

17

## COUNT 28

On or about the 7th day of April, 1957, in the District of New Jersey, A & P Trucking Co., defendant, a partnership, composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport copperas (granular technical) by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Sayreville, New Jersey, to Brooklyn, New York, for compensation in the amount of \$69.69 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

## COUNT 29

On or about the 8th day of April, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership, composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport yellow prussiate of soda by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Warners, New Jersey, to Brooklyn, New York for compensation in the amount of \$69.69 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

18

## COUNT 30

On or about the 14th day of April, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership, composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport copperas (granular technical) by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Sayreville, New Jersey, to Brooklyn, New York, for compensation in the amount of \$69.69 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

## COUNT 31

On or about the 16th day of April, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership, composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport chromic acid, flake by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Kearny, New Jersey, to Brooklyn, New York, for compensation in the amount of \$48.08 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

19

## COUNT 32

On or about the 26th day of April, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership, composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport yellow prussiate of soda by

motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Warners, New Jersey to Brooklyn, New York for compensation in the amount of \$69.69 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

### COUNT 33

On or about the 28th day of April, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership, composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport copperas (granular technical) by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Sayreville, New Jersey, to Brooklyn, New York, for compensation in the amount of \$69.69 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

### COUNT 34

On or about the 30th day of April, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership, composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport paint, dry by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Brooklyn, New York, to Hawthorne, New Jersey, for compensation in the amount of \$28.17 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)



## COUNT 35

On or about the 4th day of May, 1954, in the District of New Jersey, A & P Trucking Co., defendant, a partnership, composed of Alex Schub, Aldo Iafrate and Arthur Clough, a common carrier by motor vehicle, did knowingly and wilfully engage in an interstate operation on a public highway as a common carrier by motor vehicle and, as such carrier, did transport paint, dry by motor vehicle, on public highways, for Reichhold Chemicals, Inc., from Brooklyn, New York, to Irvington, New Jersey, for compensation in the amount of \$30.04 without there being in force with respect to the defendant a certificate of public convenience and necessity issued by the Interstate Commerce Commission authorizing such interstate operations. (Title 49, Sec. 306 (a) and 322 (a), U. S. Code)

HERMAN SCOTT,  
*United States Attorney.*

22 IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

Cr. 252-56

UNITED STATES OF AMERICA

*vs.*

A & P TRUCKING Co., a partnership composed of Alex Schub, Aldo Iafrate and Arthur Clough and SOL LIEBMAN,

**Notice of Allocation — July 6, 1956**

Pursuant to Rule 8 of the General Rules of this Court, I have allocated the above-entitled matter to *Newark, N. J.*

Please file pleadings and make all motions returnable there.

MICHAEL KELLER, JR.,  
*Clerk*

By VERA A. ALEXANDER  
Vera A. Alexander  
*Deputy Clerk*

24 IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

Cr. No. 252-56

UNITED STATES OF AMERICA,

vs.

A & P TRUCKING COMPANY,

Appearance — Filed September 14, 1956

SIR:

You are hereby notified that I appear for A & P Trucking Co., all partners and Sol Leibman, the defendant in the above-entitled action.

A & P TRUCKING Co.

All Partners and SOL LIEBMAN

AUGUST W. HECKMAN

August W. Heckman

*Attorney for defendant*

880 Bergen Ave., Jersey City

Jo. Sq. 2-1113

25 IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

Cr. 252-56 — PLEADING

UNITED STATES OF AMERICA

v.

A & P TRUCKING COMPANY, et. al.

Before The Honorable THOMAS F. MEANEY, U. S. D. J.

Appearances:

FREDERIC C. RITGER, Assistant U. S. Attorney.

AUGUST W. HECHMAN and

MORTON E. KIEL [New York Bar] for defendants.

Arraignment and Plea — Sept. 14, 1956

Mr. Ritger: May it please the Court, this is a 35-count criminal information charging various violations of ICC

regulations. It charges the partnership, and I understand the three partners are present here this morning—Alex Schub, Aldo Iafrate, and Arthur Clough, doing business as A & P Trucking—and also Sol Liebman, an individual, is charged.

The Court: You appear for all of them, Mr. Heckman?

Mr. Heckman: Yes, I do, your Honor; and in addition——

The Court: How do you plead to the information.

Mr. Heckman: We plead not guilty.

26 The Court: You have been served with a copy of it?

Mr. Heckman: Yes, sir, we have, and all of the partners as well as the driver plead not guilty to the entire information.

I would like to say to your Honor that in this case I am associated with New York counsel, an esteemed member of the Bar of that State, Mr. Morton Kiel who stands to my right, 140 Cedar Street, New York, New York. He is an officer also——

The Court: Is this just an advertisement or do you desire to move his admission?

Mr. Heckman: An advertisement as well.

The Court: You desire to move his admission for the purpose of this trial.

Mr. Heckman: Yes, I move his admission pro hac vice.

The Court: All right.

Mr. Ritger: For the record, if your Honor pleases, I think it should show that the partnership is charged as an entity and not the individuals; we charge A & P Trucking Company.

The Court: All right.

Mr. Heckman: Your Honor, I would also like to reserve a period of 15 days from today's date within which to move to strike the criminal information.

The Court: When was this information filed?

Mr. Heckman: We only received it the other day.

Mr. Ritger: It was filed July 5th, sir, mailed out approximately the end of August.

27 The Court: All right. \* \* You may make appropriate motions at the proper time, within 15 days.

Mr. Heckman: Thank you. I will.



29 IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

No. 252-56

UNITED STATES OF AMERICA, *Plaintiff,*

*vs.*

A & P TRUCKING Co., a partnership composed of Alex Schub, Aldo Iafrate and Arthur Clough and SOL LIEBMAN, *Defendants.*

**Notice of Motion to Quash Information — Filed Sept. 9, 1957**

To The United States Attorney:

TAKE NOTICE that on Monday, May 13, 1957, I shall move before the Honorable Richard Hartshorne or such Judge as may be hearing motions on that day, for an Order quashing the Information heretofore filed against the defendants herein on the following grounds:

1. The action of the United States in instituting suit against the defendants is contrary to law (18 U. S. C. 835) and the decision of the United States District Court for the Southern District of New York in *United States of America vs. American Freightways Co.*, a partnership composed of Allan J. Resler and Norman Forman reported in 352 U. S. 864, 77 S. Ct. 95, also 77 S. Ct. 588.

2. For such other good and divers reasons as will be presented and argued on the return day of the motion.

AUGUST W. HECKMAN

August W. Heckman

*Attorney for Defendants*

31 IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

Criminal No. 252-56

UNITED STATES OF AMERICA, *Plaintiff,*

*vs.*

A & P TRUCKING Co., a partnership composed of Alex Schub, Aldo Iafrate and Arthur Clough and SOL LIEBMAN, *Defendants.*

**Order Dismissing Information — November 13, 1957**

This matter having come before the Court upon motion by the defendant A & P Trucking Co., a partnership, Anthony J. Cioffi, Esquire, appearing for the defendant, and Frederic C. Ritger, Jr., Esquire, Assistant United States Attorney, appearing for the government; and it appearing that the United States Attorney has charged the A & P Trucking Co., a partnership, as the defendant in a criminal information setting forth violations of regulations of the Interstate Commerce Commission; and the Court having decided that the defendant partnership as an entity is not subject to criminal liability under the section set forth, it is on this 13th day of November, 1957,

ORDERED that the criminal information filed with the Clerk of this Court on July 5, 1956, be and the same is hereby dismissed.

**WILLIAM F. SMITH**

*United States District Judge*

We consent to the form of the foregoing Order.

**AUGUST W. HECKMAN**

August W. Heckman

*Attorney for Defendant*

**ANTHONY J. CIOFFI**

Anthony J. Cioffi (*Of Counsel*)

33 IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

Criminal No. 252-56

UNITED STATES OF AMERICA

v.

A & P TRUCKING Co., a partnership composed of Alex Schub, Aldo Iafrate and Arthur Clough and SOL LIEBMAN, *Defendants*.

**Notice of Appeal to the Supreme Court of the United States —  
Filed December 9, 1957**

I. Notice is hereby given that the United States hereby appeals to the Supreme Court of the United States from the order entered November 14, 1957, dismissing the information which charged violations of 18 U. S. C. 835 and 49 U. S. C. 322 (a).

This appeal is taken pursuant to 18 U. S. C. 3731.

II. The clerk will please prepare a transcript of the record in this cause, for transmission to the Clerk of the Supreme Court of the United States, and include in said transcript the following:

1. Transcript of docket entries
2. Information
3. Motion to dismiss the information
4. Order dismissing the information
5. Notice of appeal

34 III. The following question is presented by this appeal:

Whether a partnership as a legal entity is subject to criminal liability under 18 U. S. C. 835 and 49 U. S. C. 322 (a).

CHESTER A. WEIDENBURNER  
Chester A. Weidenburner  
*United States Attorney  
District of New Jersey*



## CRIMINAL DOCKET

[illegible][illegible]

- |          |   |
|----------|---|
| 7-6-56   | Criminal Information for failing to mark or placard motor vehicle used to transport dangerous poisons and aiding and abetting; permitting driver to operate motor vehicle without being physically examined and certified; failing to equip motor vehicle with fire extinguisher; transporting property in interstate commerce for compensation without authority, filed 7-5-56 |
| 7-6-56   | Notice of allocation. filed (Newark)  |
| 9-17-56  | Notice of Appearance as to both defendants filed 9-14-56.   |
| 9-17-56  | A & P Trucking Co. - Plea - Not Guilty. (Meaney) (9-14-56)  |
| 9-17-56  | Sol Lieberman - Plea - Not Guilty. (Meaney) (9-14-56)   |
| 9-18-56  | Transcript of plea filed 9-14-56.<br>as to both defendants  |
| 9-10-57  | Defendants notice of motion to quash information returnable 9-23-57 and   |
| 10-29-57 | Hearing on defendant's motion to quash information. Ordered motion granted. Order to be submitted. (Smith) (10-28-57)   |
| 11-18-57 | Order dismissing information as to A & P Trucking Co., filed 11-14-57. (Smith)  |
| 12-11-57 | Notice of appeal filed 12-9-57.   |
| 12-11-57 | Copies mailed to Clerk of U.S. Supreme Court and August W. Heckman, Esq.  |



39 Clerk's Certificate to foregoing transcript omitted in printing.

39a IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

CR. No. 261-56

UNITED STATES OF AMERICA, *Plaintiff,*

*v.*

HOPLA TRUCKING COMPANY, *a partnership composed of*  
William Levine and Melvin Ulrich  
*Defendants*

**Information—Filed July 6, 1956**

The United States Attorney charges:

COUNT 1

On or about the 11th day of October, 1955, in the District of New Jersey, HOPLA TRUCKING COMPANY, defendant, a partnership composed of William Levine and Melvin Ulrich, a common carrier by motor vehicle subject to the regulations prescribed by the Interstate Commerce Commission applying to shipments of explosives and other dangerous articles made by way of common carriers by motor vehicle (49 C.F.R. Parts 71 through 78), did knowingly transport by motor vehicle more than 2500 pounds, to wit, 2800 pounds gross weight of methanol, a flammable liquid, from Perth Amboy, New Jersey enroute to Bronx, New York, on public highways in the State of New Jersey without said vehicle being marked or placarded in the manner prescribed by law. (49 C.F.R. 77.823(a); 18 U.S. Code 835)

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COUNT 2

On or about the 11th day of October, 1955, in the District of New Jersey, HOPLA TRUCKING COMPANY, defendant, a partnership composed of William Levine and Melvin Ulrich, a common carrier by motor vehicle subject to the regulations prescribed by the Interstate Commerce Commission applying to shipments of explosives and oth-

er dangerous articles made by way of common carriers by motor vehicle (49 C.F.R. Parts 71 through 78), did knowingly fail to require its driver, Bernard K. Terhane, who on said day operated a motor vehicle transporting 2800 pounds gross weight of methanol, a flammable liquid, from Perth Amboy, New Jersey enroute to Bronx, New York, on public highways within the State of New Jersey, to have in his possession a manifest, memorandum receipt, bill of lading, shipping order, shipping paper, or other memorandum showing the prescribed labels required for the outside containers of such flammable liquid. (49 C.F.R. 77.817; 18 U.S. Code 835).

HERMAN SCOTT,  
*United States Attorney.*

42 IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

Cr. 261-56

UNITED STATES OF AMERICA, *Plaintiff,*

*v.*

HOPLA TRUCKING COMPANY, *a partnership composed of*  
William Levine and Melvin Ulrich

**Notice of Allocation—July 6, 1956**

Pursuant to Rule 8 of the General Rules of this Court, I have allocated the above-entitled matter to *Newark, N.J.*

Please file pleadings and make all motions returnable there.

MICHAEL KELLER, JR., *Clerk*

By VERA A. ALEXANDER  
Vera A. Alexander

*Deputy Clerk*



44 IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

Cr. No. 261-56

UNITED STATES OF AMERICA, *Plaintiff,*

*v.*

HOPLA TRUCKING COMPANY, *a partnership composed of*  
William Levine and Melvin Ulrich, *Defendants.*

**Appearance—Filed September 14, 1956**

Sir:

You are hereby notified that I appear for HOPLA TRUCKING Co., all partners, the defendant in the above-entitled action.

AUGUST W. HECKMAN,  
August W. Heckman  
*Attorney for defendant*

880 Bergen Ave., Jersey City, N.J.  
Jo. Sq. 2-1113

46 IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

Cr. 261-56—PLEADING

UNITED STATES OF AMERICA, *Plaintiff,*

*v.*

HOPLA TRUCKING COMPANY, *a partnership composed of*  
William Levine and Melvin Ulrich, *Defendants.*

Before The Honorable THOMAS F. MEANEY, U.S.D.J.

Appearances:

FREDERIC C. RITGER, Assistant U. S. Attorney.  
AUGUST W. HECKMAN and MORTON E. KIEL [New  
York] for defendant.

**Arraignment and Plea—September 14, 1956**

THE COURT: Mr. Heckman, have you been served with a copy of the information?



## Docket entries

**CLERK'S FEES**

[illegible]



MR. HECKMAN: Yes, we have, if your Honor please.

THE COURT: You are familiar with it.

MR. HECKMAN: Not guilty. And in this case I am also associated with Mr. Kiel, of the New York Bar.

THE COURT: Well, we will extend the permission to make a sort of blanket coverage for these two cases.

MR. HECKMAN: Thank you.

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48 IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

No. 261-56

UNITED STATES OF AMERICA, *Plaintiff,*

*v.*

HOPLA TRUCKING COMPANY, *a partnership composed of*  
*William Levine and Melvin Ulrich, Defendants.*

**Notice of Motion to Quash Information—Filed September 9, 1957**

To The United States Attorney:

TAKE NOTICE that on Monday, May 13, 1957, I shall move before the Honorable Richard Hartshorne or such Judge as may be hearing motions on that day, for an Order quashing the Information heretofore filed against the defendants herein on the following grounds:

1. The action of the United States in instituting suit against the defendants is contrary to law (18 U.S.C. 835) and the decision of the United States District Court for the Southern District of New York in *United States of America vs. American Freightways Co.*, a partnership composed of Allan J. Resler and Norman Forman reported in 352 U.S. 864, 77 S. Ct. 95, also 77 S. Ct. 588.

2. For such other good and divers reasons as will be presented and argued on the return day of the motion.

AUGUST W. HECKMAN,  
August W. Heckman  
*Attorney for Defendants.*



50 IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

Criminal No. 261-56

UNITED STATES OF AMERICA, *Plaintiff,*

*v.*

KOPLA TRUCKING COMPANY, *a partnership composed of*  
William Levine and Melvin Ulrich, *Defendants.*

**Order Dismissing Information—November 13, 1957**

This matter having come before the Court upon motion by the defendant, Kopla Trucking Company, a partnership, Anthony J. Cioffi, Esquire, appearing for the defendant and Frederic C. Ritger, Jr., Esquire, Assistant United States Attorney, appearing for the government; and it appearing that the United States Attorney has charged the Kopla Trucking Company, a partnership, as the defendant in a criminal information setting forth violations of regulations of the Interstate Commerce Commission; and the Court having decided that the defendant partnership as an entity is not subject to criminal liability under the section set forth, it is on this 13th day of November, 1957.

Ordered that the criminal information filed with the Clerk of this Court on July 6, 1956, be and the same is hereby dismissed.

WILLIAM F. SMITH

*United States District Judge.*

We consent to the form of the foregoing Order.

AUGUST W. HECKMAN,  
August W. Heckman,  
*Attorney for Defendant.*

ANTHONY J. CIOFFI,  
Anthony J. Cioffi  
*(Of Counsel)*

52 IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

Criminal No. 261-56

UNITED STATES OF AMERICA, *Plaintiff,*

*v.*

HOPLA TRUCKING COMPANY, *a partnership composed of*  
William Levine and Melvin Ulrich, *Defendants.*

**Notice of Appeal to the Supreme Court of the United States—  
Filed December 9, 1957.**

I. Notice is hereby given that the United States hereby appeals to the Supreme Court of the United States from the order entered November 14, 1957, dismissing the information which charged violations of 18 U.S.C. 635.

This appeal is taken pursuant to 18 U.S.C. 3731.

II. The clerk will please prepare a transcript of the record in this cause for transmission to the Clerk of the Supreme Court of the United States and include in said transcript the following:

1. Transcript of docket entries
2. Information
3. Motion to dismiss the information
4. Order dismissing the information
5. Notice of appeal

53 III. The following question is presented by this appeal:

Whether a partnership as a legal entity is subject to criminal liability under 18 U.S.C. 835.

CHESTER A. WEIDENBURNER,  
Chester A. Weidenburner,  
*United States Attorney,*  
*District of New Jersey*

57 Clerk's Certificate to foregoing transcript omitted in printing.

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58 SUPREME COURT OF THE UNITED STATES

No. 754, October Term, 1957

**Order Noting Probable Jurisdiction—March 31, 1958**

Appeal from the United States District Court for the District of New Jersey.

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted and the case is transferred to the summary calendar.